



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2009-0805; FRL-9908-70-Region 5]

Approval of Air Quality Implementation Plans; Indiana; Ohio;

"Infrastructure" SIP State Board Requirements for the 2006

24-Hour PM_{2.5} NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to its authority under the Clean Air Act (CAA), the Environmental Protection Agency (EPA) is taking final action to approve elements of state implementation plan (SIP) submissions by the Indiana Department of Environmental Management (IDEM) and the Ohio Environmental Protection Agency (Ohio EPA) to address the section 110 requirements of the CAA for the 2006 24-hour fine particle National Ambient Air Quality Standards (2006 PM_{2.5} NAAQS). The SIPs under section 110 of the CAA are often referred to as the "infrastructure" SIP, and specifically we are finalizing approval of portions of these states' submissions intended to meet the applicable state board requirements obligated by section 128 of the CAA. The proposed rule associated with this final action was published on February 7, 2014, and we received no comments.

DATES: This final rule is effective on [INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2009-0805. All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly-available only in hard copy. Publicly-available docket materials are available either electronically in www.regulations.gov or in hard copy at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Andy Chang at (312) 886-0258 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Andy Chang, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-0258, chang.andy@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

I. What is the background for this action?

II. What action is EPA taking?

III. Statutory and Executive Order Reviews.

I. What is the background for this action?

Under sections 110(a)(1) and (2) of the CAA, and implementing EPA policy, states are required to submit to EPA infrastructure SIPs to ensure that their SIPs provide for implementation, maintenance, and enforcement of the NAAQS, including the 2006 PM_{2.5} NAAQS. These submissions must contain any revisions needed for meeting the applicable SIP requirements of section 110(a)(2), or certifications that their existing SIPs already met those requirements.

EPA highlighted this statutory requirement in an October 2, 2007, guidance document entitled "Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 1997 8-hour Ozone and PM_{2.5} National Ambient Air Quality Standards" (2007 Memo). On September 25, 2009, EPA issued additional guidance pertaining to the 2006 PM_{2.5} NAAQS entitled "Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-Hour Fine Particle (PM_{2.5}) National Ambient Air Quality Standards (NAAQS)" (2009 Memo).

On October 29, 2012, EPA finalized its approval of the majority of the infrastructure SIP elements for Indiana and Ohio with respect to the 2006 PM_{2.5} NAAQS (see 77 FR 65478). However, we took no action on the state board requirements of section 110(a)(2)(E)(ii); instead, we committed to address compliance with these requirements at a later time (see 77 FR 65478 at 75480). EPA's February 7, 2014, proposed rulemaking and today's final action fulfill that commitment.

To assist states with addressing the state board requirements of section 110(a)(2)(E)(ii), EPA issued "Guidance on Infrastructure SIP Elements Required Under Sections 110(a)(1) and (2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS)" (2011 Memo) and most recently, "Guidance on Infrastructure SIP Elements Under Clean Air Act Sections 110(a)(1) and 110(a)(2)" (2013 Memo). Notably, the 2013 Memo specifies that the state board requirements are not NAAQS specific, i.e., the requirements are identical for each NAAQS. EPA's February 7, 2014, proposed rulemaking (see 79 FR 7410) detailed how Indiana and Ohio have met the applicable requirements of section 110(a)(2)(E)(ii), and no comments were received regarding the proposal to approve these states' satisfaction of those requirements.

II. What action is EPA taking?

For the reasons discussed in our February 7, 2014, proposed rulemaking, EPA is taking final action to approve submissions from IDEM and Ohio as meeting the state board requirements under section 110(a)(2)(E)(ii) for the 2006 PM_{2.5} NAAQS. To reiterate, this action does not extend to any other NAAQS, nor does it extend to any other element under section 110(a)(1) and (2) for the 2006 PM_{2.5} NAAQS.

III. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]. Filing a petition for reconsideration by the

Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations,
Particulate matter, Reporting and recordkeeping requirements.

Dated: March 17, 2014.

Susan Hedman,
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52-- APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.770 the table in paragraph (e) is amended by revising the entry for "Section 110(a)(2) Infrastructure Requirements for the 2006 24-Hour PM_{2.5} NAAQS".

The revised text reads as follows:

§ 52.770 Identification of plan.

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(e) * * *

EPA-Approved Indiana Nonregulatory and Quasi-Regulatory Provisions

Title	Indiana Date	EPA Approval	Explanation
* * *	* * *	*	
Section 110(a)(2) Infrastructure Requirements for the 2006 24-Hour PM _{2.5} NAAQS	10/20/2009, 6/25/2012, 7/12/2012	7/10/2013, 78 FR 41311	This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). We are finalizing approval of the PSD source impact analysis requirements of section 110(a)(2)(C), (D)(i)(II), and (J), but are not finalizing action on the visibility protection requirements of (D)(i)(II), and the state board requirements of (E)(ii). We will address these requirements in a separate action.
	5/22/2013	[INSERT THE DATE OF PUBLICATION IN THE	This action addresses the following CAA

		FEDERAL REGISTER], [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	elements: State board requirements of section 110(a)(2)(E)(ii).
*	*	*	*

3. Section 52.1891 is amended by adding paragraph (d) to read as follows:

§ 52.1891 Section 110(a)(2) infrastructure requirements.

* * * * *

(d) Approval — In a June 7, 2013, submission, Ohio certified that the state has satisfied the infrastructure SIP requirements of section 110(a)(2)(E)(ii) for the 2006 24-hour PM_{2.5} NAAQS.

[FR Doc. 2014-07564 Filed 04/04/2014 at 8:45 am; Publication Date: 04/07/2014]